

Message Text

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TO SECSTATE WASHDC IMMEDIATE 2200

INFO AMEMBASSY MOSCOW

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C O N F I D E N T I A L SECTION 1 OF 3 VIENNA 4994

E.O. 11652: GDS

TAGS: TSPA, UR, UN

SUBJECT: OUTER SPACE COMMITTEE: USSR ON TELEVISION DIRECT
BROADCAST SATELLITES

1. SUMMARY. US AND USSR DELS MET MID-DAY 21 JUNE AND
DISCUSSED OUTSTANDING DBS ISSUES. SOVS GAVE US REDRAFT
OF SO-CALLED "NEW YORK" TEXT OF BRACKETED PRINCIPLE ON
CONSULTATIONS AND AGREEMENTS WORKED OUT IN LEGAL SUB-
COMMITTEE IN APRIL. SOV DEL ALSO RAISED SPACE
CONFERENCE AND LANDSAT PHOTO OF USSR DROUGHT, WHILE
US RAISED COLOMBIAN REQUEST FOR PERMANENT OBSERVER
STATUS WITH THE OSC, THESE MATTERS REPORTED SEPTEL.
END SUMMARY.

2. DETAILS. USSR REP MAIORSKI SUGGESTED US AND SOV
DELS FIRST DISCUSS DBS SINCE THIS "PREOCCUPEIS MOST
DELEGATIONS." BAKER OBSERVED THE US IS WILLING TO
LOOK AT THIS SUBJECT ALTHOUGH WE CONTINUE TO BELIEVE
A CONTINUATION OF THIS WORK IN THE LEGAL SUBCOMMITTEE
WOULD BE PREFERABLE. MAIORSKI SAID THE OSC HAS THE
OPPORTUNITY TO FINISH THE DBS GUIDELINES AT THIS
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SESSION IF DELEGATIONS WISH TO DO SO. THE TEXT WORKED
OUT BY THE LEGAL SUBCOMMITTEE IN NEW YORK, ALBEIT IN
BRACKETS, SHOULD PROVIDE THE BASIS FOR OSC DISCUSSIONS,
BEARING IN MID THE IDENTITY OF MEMBERSHIP OF THE TWO
BODIES. THE SOVIET GOVT HAD CAREFULLY CONSIDERED
THE NEW YORK TEXT AND, IN GENERAL, WAS PREPARED TO GIVE
IT A GREEN LIGHT. VARIOUS SOVIET AGENCIES, INCLUDING

BROADCASTING, HAD JOINED IN PREPARING A SHORT PAPER WHICH CONSTITUTES THE USSR VIEW AS TO THE WAY IN WHICH A PROPERLY EDITED NY TEXT WOULD READ. THEIR NEW PAPER (TEXT BELOW) IS "ILLUSTRATIVE" AND SEEKS TO STICK AS CLOSE TO THE NY TEXT AS POSSIBLE. THEY DO NOT INTEND TO PRESENT IF FORMALLY AS AN OSC DOCUMENT BUT WILL USE IT IN PRIVATE CONVERSATIONS. IF THE TEXT PROVES WIDELY ACCEPTABLE, THE USSR IS PREPARED TO BE FLEXIBLE ON THE PREAMBLE TO THE GUIDELINES. THEY WILL ALSO FOREGO ANY MENTION OF PROGRAM CONTENT AND ILLEGAL BROADCASTS.

3. AS AN EARNEST OF SOVIET INTENTIONS, AND REALIZING THE OSC TWO-WEEK SESSION IS SHORT, THEY ARE READY TO AGREE TO EXTEND THE SESSION A FEW DAYS IF THAT WILL FACILITATE AGREEMENT. THE "GENERAL SENTIMENT IN THE OSC FAVORS A REAL EFFORT. THEY HOPE THE US WILL LOOK WITH FAVOR ON THEIR TEXT; THE CHANCES OF AGREEMENT "ARE PRETTY THIN" IF THE US CANNOT DO SO. IN RESPONSE TO A QUESTION, MAIORSKI SAID HE BELIEVES SWEDEN AND FRANCE WOULD BE PREPARED TO GO ALONG WITH A TEXT WHICH THE SOVIETS AND THE US CAN ACCEPT; HE BELIEVES THE OTHER COMMITTEE MEMBERS MIGHT LIKEWISE PROVE AMENABLE.

4. BAKER REITERATED US PREFERENCE THAT THE GUIDELINES NOT REPEAT NOT INCLUDE ANY PRINCIPLE ON CONSULTATIONS AND AGREEMENTS, THIS BEING UNNECESSARY IN VIEW OF THE CONFIDENTIAL

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WARC. BAKER SAID THAT AT FIRST GLANCE THE SOVIET PAPER'S FIRST PARAGRAPH, WHICH EMPLOYS THE PHRASE "AGREEMENTS AND/OR ARRANGEMENTS," WOULD GIVE US CERTAIN DIFFICULTIES. THE SOVIET TEXT LEAVES US SOME WAY TO GO BUT MIGHT PROVIDE A STARTING POINT FOR OUR BILATERAL DISCUSSIONS, PROVIDED THEY DO NOT INTEND TO INTRODUCE IT. IN THIS EVENT, WE WOULD EXAMINE THE SOVIET PAPER AND GIVE THEM CONSIDERED VIEWS.

5. MAIORSKI ALSO COMMENTED THAT WHEN THE USSR HAD BEGUN THE DBS NEGOTIATION SOME FIVE YEARS AGO, IT HAD SOUGHT A TREATY BASED ON REQUIREMENT OF PRIOR CONSENT, PROGRAM CONTENT OBLIGATIONS, AND A PROHIBITION ON ILLEGAL/INADMISSIBLE BROADCASTS. THEY WERE MOVING FAR, HE ASSERTED, IN PROPOSING A TEXT THAT WOULD GIVE THEM NONE OF THESE OBJECTIVES. HE SAID THE USSR WANTS TO BE CERTAIN THAT IF THE USSR WERE TO ASK FOR CONSULTATIONS ON SOME PARTICULAR ASPECT OF A US DBS TV SERVICE, THEY WOULD RECEIVE A US REPLY. THEY WERE NOT SEEKING A VETO. BAKER NOTED THAT THE SOVIETS MAY CONSIDER THEMSELVES TO HAVE MOVED A LONG WAY BUT ONE HAD TO TAKE INTO ACCOUNT THE APPROPRIATENESS

OF THE POSITIONS FROM WHICH THEY HAD STARTED. THE
U.S. HAD ALSO MOVED ON THIS ISSUE, AS EVIDENCED BY
THE BENNET 1975 STATEMENT AND THIS WAS ESSENTIALLY
WHERE WE STOOD TODAY.

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6. MAIORSKI NOTED THE NIGERIAN ATTACK ON THE
CONSENSUS PROCEDURE AT THE NY LEGAL SUBCOMMITTEE
SESSION AND EXPRESSED CONCERN THAT THIS ISSUE NOT
REPEAT NOT BE RAISED IN CURRENT SESSION. HE PORTRAYED
AS A SERIOUS MISTAKE THE MEXICAN SUGGESTION IN NYC
THAT IF AGREEMENT ON DBS CANNOT BE REACHED, IT
SHOULD BE PUT BEFORE THE UNGA FOR DECISION BY VOTING.
AS A FINAL NOTE, HE SAID THAT IF FOLLOWING BILATERAL
CONSULTATIONS WE ARE UNABLE TO REACH AGREEMENT, WE SHOULD
NOTIFY OTHER MEMBERS AND AGREE TO PART PEACEFULLY

7. THREE-PARAGRAPH TEXT HANDED US BY SOV DEL READS
AS FOLLOWS.

BEGIN QUOTE: (A) A DIRECT TELEVISION BROADCASTING
SERVICE BY MEANS OF ARTIFICIAL EARTH SATELLITES
SPECIFICALLY DIRECTED AT A FOREIGN STATE SHALL BE
ESTABLISHED ONLY IN THOSE CASES IN WHICH IT IS IN
AGREEMENT WITH THE RELEVANT INSTRUMENTS OF THE
INTERNATIONAL TELECOMMUNICATION UNION, AND SHALL BE
BASED ON APPROPRIATE AGREEMENTS AND/OR ARRANGEMENTS
BETWEEN THE BROADCASTING AND RECEIVING STATES OR THE
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BROADCASTING ENTITIES DULY AUTHORIZED BY THESE STATES, IN ORDER TO FACILITATE THE FREER AND WIDER DISSEMINATION OF INFORMATION OF ALL KINDS AND TO ENCOURAGE CO-OPERATION IN THE FIELD OF INFORMATION AND THE MUTUAL EXCHANGE OF INFORMATION.

(B) FOR THAT PURPOSE A STATE WHICH PROPOSES TO ESTABLISH OR AUTHORIZE THE ESTABLISHMENT OF A DIRECT TELEVISION BROADCASTING SERVICE BY MEANS OF ARTIFICIAL EARTH SATELLITES SPECIFICALLY DIRECTED AT A FOREIGN STATE SHALL WITHOUT DELAY NOTIFY THAT STATE OF SUCH INTENTION AND SHALL ENTER INTO CONSULTATIONS WITH THAT STATE IF THE LATTER SO REQUESTS.

(C) NO SUCH AGREEMENTS AND/OR ARRANGEMENTS SHALL BE REQUIRED IN THOSE CASES IN WHICH THE COVERAGE OF THE TERRITORY OF A STATE BY DIRECT TELEVISION BROADCASTS INTENDED BY ANOTHER STATE FOR ITS OWN POPULATION IS DUE TO THE OVERSPILL OF THE SIGNAL BEYOND THE PLANNED SERVICE ZONE IF SUCH AN OVERSPILL IS PERMITTED UNDER THE RELEVANT INSTRUMENTS OF THE INTERNATIONAL TELECOMMUNICATION UNION. END QUOTE.

8. ANALYSIS: THE FIRST PARAGRAPH OF THE SOVIET DRAFT REPEATS THE "NEW YORK" (LEGAL SUBCOMMITTEE) LANGUAGE CONCERNING THE NEED TO BASE DBS TV SERVICES ON "AGREEMENTS AND/OR ARRANGEMENTS" BETWEEN THE BROADCASTING STATE AND ANY STATE WHICH WISHES TO CONSULT WITH IT AND THEREFORE PRESERVES THE DISADVANTAGE OF ENVISAGING AGREEMENTS WHICH CAN GO BEYOND TECHNICAL CONCERNS. THE SOVIET DRAFT ALSO INTRODUCES AN EXPLICIT REQUIREMENT THAT A SERVICE BE ESTABLISHED "ONLY IN THOSE CASES" IN WHICH THE SERVICE IS CONSISTENT "WITH THE RELEVANT INSTRUMENTS OF THE ITU," A THEME WHICH IS SOUNDED MORE SOFTLY IN THE NEW YORK TEXT. THIS POINTS UP THE FACT

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THAT THE "AGREEMENTS" SUBSEQUENTLY REFERRED TO MAY GO BEYOND TECHNICAL CONCERNS.

9. THE SECOND PARAGRAPH OF THE USSR TEXT IS ACCEPTABLE IN SUBSTANCE. ITS REFERENCE TO NOTIFICATION AND CONSULTATIONS IS SIMILAR TO THAT CONTAINED IN THE ALTERNATIVE TEXT WHICH OUR INSTRUCTIONS AUTHORIZE.

10. THE THIRD PARAGRAPH OF THE USSR TEXT RAISES THE SAME DIFFICULTY AS THE FIRST BY ITS USE OF THE

"AGREEMENTS AND/OR ARRANGEMENTS" LANGUAGE. THE THIRD PARAGRAPH WOULD BE ACCEPTABLE IF THAT PHRASE WERE REPLACE BY "NOTIFICATION AND CONSULTATIONS." (WE NOTE PARENTHETICALLY THAT THE THIRD USSR PARAGRAPH CURIOUSLY APPEARS TO EXEMPT SPILLOVER OF A NATIONAL SERVICE FROM ITS "AGREEMENTS AND/OR ARRANGEMENTS" REQUIREMENT BUT WOULD NOT SO LIBERALLY TREAT A MULTILATERAL SERVICE SUCH AS NORDSAT. THIS IS A PROBLEM WITH WHICH THE SWEDISH DEL WILL NO DOUBT DEAL.)

11. RECOMMENDATIONS. WE BELIEVE THAT, CONSISTENT WITH OUR INSTRUCTIONS, WE SHOULD INDICATE TO SOVIETS THAT THE CONCEPT WE CAN ACCEPT, IF THERE IS TO BE A TENTH PRINCIPLE, IS THE CONCEPT OF "NOTIFICATION AND CONSULTATIONS", AND THAT THE CONCEPT OF "AGREEMENTS AND/OR ARRANGEMENTS" WHICH APPEARS OPEN TO INCLUSION OF ELEMENTS OTHER THAN TECHNICAL CONCERNS IS NOT ACCEPTABLE.

12. WE BELIEVE THAT WHEN WE REPLY IN THIS VEIN, ONE OF TWO CONSEQUENCES MAY ENSUE:

(A) SOVIETS WILL DECIDE THAT THEY ARE AT THE LIMIT OF THEIR FLEXIBILITY AND WE ARE AT OURS AND

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AGREE WITH US TO TELL OTHER OSC MEMBERS THAT PROSPECTS OF AGREEMENT ARE SLIM AND THAT THE WORKING ROUP APPROACH TO COMPLETING DBS PRINCIPLES ANNOUNCED TODAY

BY JANKOWITSCH HAS NOT FUTURE. (THIS WOULD BE ACCOMPANIED BY SOVIET CORRIDOR EFFORTS TO FOCUS ANY LDC DISAPPOINTMENT ON US, BUT WE DO NOT EXPECT PUBLIC REPORACH FROM SOVS AS THEY APPEAR TO BE NO MORE EAGER TO ENCOURAGE RESORT TO UNGA THAN WE.) (B) SOVIETS WILL CONTINUE TO EXPLAIN THEIR POSITION AND EVENTUALLY SURFACE THEIR PAPER IN WORKING GROUP. THEY WOULD THUS HOPE TO ADD TO THE PRESSURE ON US TO MOVE TOWARDS WHAT MAY EMERGE (AFTER THE SPILLOVER PARAGRAPH IS NEGOTIATED) AS A SOVIET DRAFT CONSENSUS TO WHICH ONLY THE U.S. AND A FEW OTHERS DISSENT. THIS SCENARIO COULD PRODUCE GREATER DISCONTENT IN OSC WITH US. EVEN THOUGH SOVIETS ARE NOT SEEKING TO BREAK CONSENSUS PATTERN OR STIMULATE MOVE TO UNGA, THIS SEQUENCE COULD STIMULATE THAT RESULT.

13. FACED WITH THESE PROSPECTS, WE INTEND TO TELL SOVEITS LATE WEDNESDAY AFTERNOON:

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-- WE HAVE CONSIDERED THEIR PAPER, AND HAVE TRANSMITTED IT TO WASHINGTON.
-- WE NOTE THAT THE SOVIET DRAFT HASCONSULTATIONS ONLY IN ITS TITLE, AND NOWHERE IN TEXT.
-- WE CONTINUE TO FAVOR NO TENTH PRINCIPLE, OR AT MAXIMUM ONE BASED ON NOTIFICATION AND CONSULTATIONS. WE CANNOT, THEREFORE, ACCEPT THEIR TEXT.

14. IF SOVIET ASKS US WHAT WE CAN ACCEPT, WE INCLINED TO STATE THAT UNLESS THEY CAN ACCEPT A FORMULA BASED ON NOTIFICATION AND CONSULTATION PLUS SOME VERY GENERAL LANGUAGE OF SOME "CONSTRUCTIVE AMBIGUITY," WE DO NOT BELIEVE DRAFTING EXCHANGE USEFUL. THIS WOULD TEND TO LEAD US TOWARD SCENARIO 12(B).

15. IF HE APPEARS OPEN TO DISCUSSION OF OUR PRINCIPLE, WE WOULD SURFACE WITH HIM THEN OR FOLLOWING DAY DRAFT U.S. PRINCIPLE INCLUDED IN OUR INSTRUCTION. HOWEVER, WE DOUBT WHETHER THIS COULD LEAD US CLOSE TO AGREEMENT.

16. IF DRAFTING EXERCISE WITH SOVS WERE, HOWEVER, TO ENSUE ON BASIS OUR PAPER, DELEGATION WOULD FAVOR MOVING STEP FURTHER TO ACCEPT INSERTION INTO OUR DRAFT PRINCIPLE OF A REFERENCE TO "AND ARRANGEMENTS IN ACCORDANCE WITH THE APPLICABLE ITU INSTRUMENTS." THIS WOULD BE ADDED AT END OF FIRST SENTENCE. WOULD APPRECIATE DEPARTMENT COMMENTS ASAP ON THIS SUGGESTION AND ON SOVIET DRAFT AS THIS WILL AFFECT TACTICS WE

WILL FOLLOW.

17. IN INTERIM, WE INTEND TO WARN RADEL, AUSTRIAN
CHAIRMAN OF WORKING GROUP, WEDNESDAY MORNING THAT WE
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PLAN ANOTHER CONSULTATION WITH SOVIETS LATER
WEDNESDAY BUT DO NOT AT PRESENT JUDGE THAT AGREEMENT
POSSIBLE AT THIS SESSION. MEEHAN

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